

Remarks

Claims 1-10 and 14 remain under active prosecution in the present application. Claims 11-13 have been canceled. New Claims 15-23 have been added. Claims 1, 4-7, 10, and 14 have been amended. Applicants note that Claims 4-6 and 10 have been amended merely to correct typographical errors and/or in response to amendments made to the Claims from which they depend. Claims 1, 7, and 14 have been amended merely to clarify the invention and/or to focus the claims on those aspects of the invention which are a commercial priority to the assignee. No new matter is believed or intended to be involved.

In the subject Office Action dated 05/11/2005, affirmation of Applicants' election of Group I (Claims 1-10 and 14) was required. Accordingly, Claims 11-13 have been cancelled.

The Oath/Declaration originally filed with the present application was objected to as being defective. Accordingly, a new Oath/Declaration in compliance with 37 CFR 1.67(a) identifying this application by number and filing date has been included with this response.

Claim 14 was rejected under 35 U.S.C. §112, ¶2 as being indefinite for failing to particularly point out and distinctly claim the subject matter which Applicants regard as the invention. In particular, the Office Action stated that it was unclear with respect to what reference the angle of launch is limited. The Examiner construed the language to mean that the angle between the glider and the support were fixed, which Applicants submit is inconsistent with definition given for "angular range" in the present specification. Nevertheless, Claim 14 has been amended to clarify the language at issue, and to obviate the Examiner's incorrect construction. In particular, Claim 14 was amended to recite that the angular range comprises a range of angles defined by the glider relative to the ground (i.e. the angle of launch of the glider is limited with respect to the ground). Applicants note that exemplary definitions for this recited "angular range" are aptly provided in the specification, including but not limited to paragraphs [0006], [0011], [0044], [0045], [0046], and accompanying figures. In addition, Applicants traverse the suggestion in the Office Action that the recited angular range should be construed as a "fixed angle." (Office Action dated 05/11/2005 at p. 4). Indeed, one of ordinary skill in the art would construe the term "angular range" to include more than one particular angle, and Applicants had no intent for the claim term "angular range" to be construed as a "fixed angle." In light of the foregoing, Applicants respectfully request that the rejection be withdrawn.

Claims 1-7, 10 and 14 were rejected under 35 U.S.C. 103(a) as being unpatentable over Fogarty et al. (US 4,411,249) in view of Drobniewsky (US 2,078,374). Applicants note that, under MPEP §2143, in order for a *prima facie* case of obviousness to be established, the prior art reference (or references when combined) must teach or suggest all of the claim limitations. Applicants respectfully submit that the cited references fail to teach all of the claim limitations of each of the present claims, and that a *prima facie* case of obviousness therefore cannot be established

With respect to Claims 1-9, Applicants note that Claim 1 has been amended to recite the limitations that the launcher has a trigger and an opening, as well as the limitation that the launch feature comprises a valve member, wherein the valve member is configured to selectively block and unblock the opening in the launcher in response to user input via the trigger. Applicants submit that a *prima facie* case of obviousness cannot be established based on the cited art due to the fact that Fogarty et al. and Drobniewsky, either alone or in combination, do not teach or suggest these limitations. Applicants note, with traverse, the suggestion in the Office Action that Fogarty et al. teaches a “valve” by teaching engagement of a sealing ring and a flange. (Office Action at p. 6, paragraph g.). Applicants respectfully submit that this teaching of Fogarty et al. does not constitute a teaching of a “valve” as one of ordinary skill in the art would understand the term “valve.” Nevertheless, even accepting the Examiner’s purported finding of a “valve” in Fogarty et al. as correct merely for the sake of argument, Applicants note that the purported “valve” of Fogarty et al. is not a member configured to selectively block and unblock an opening in the launcher in response to user input via the trigger, as recited in Claim 1. Applicants further note that Drobniewsky fails to make up for this deficiency of Fogarty et al. In light of the foregoing, Claim 1 is patentable over the combination of Fogarty et al. and Drobniewsky, and therefore Applicants respectfully request that the rejection be withdrawn.

Applicants note that, because Claims 2-9 and 15-20 depend from Claim 1, they are patentable over the art of record for at least the same reasons that Claim 1 is patentable over the art of record. Applicants further note that the Claims 2-9 include additional limitations that are not taught or suggested in the art of record, thus forming independent basis for novelty and non-obviousness.

For instance, and without limitation, Applicants note that Claim 7 has been amended to recite that the relief valve feature provides a maximum amount of pressure that may be created

by the pump while substantially maintaining pressure created by the pump. Again accepting the Examiner's finding of a "valve" in Fogarty et al. as correct merely for the sake of argument, Applicants note that the purported "valve" of Fogarty et al. releases all of the pressure created by the pump when the pressure reaches a maximum amount, thereby launching the projectile. By contrast, the relief valve of the present Claim 7 substantially maintains pressure created by the pump while preventing the pressure from exceeding a maximum amount. This recited limitation is consistent with a proper construction of the recited term "relief valve," an exemplary definition of which is aptly provided in the specification, including but not limited to paragraphs [0015] and [0050] and accompanying figures.

With respect to Claim 10, Applicants note that the Claim recites the limitation that the "locking mechanism is configured to change from said locked position to said unlocked position *when* said glider is launched from said launcher." (emphasis added). Nevertheless, the Examiner has taken the position that Drobniwsky teaches this limitation by teaching a locking mechanism changing from a locked position to an unlocked position when the projectile reaches the apex of its trajectory. Applicants traverse this by submitting that the projectile of Drobniwsky inherently reaches its apex at some time *after* the projectile has been launched from the launcher, not *when* the projectile is launched from the launcher as recited in the claims. In other words, the timing of the locking mechanism changing to the unlocked position, as presently claimed, has nothing to do with the apex of the glider's trajectory, for the unlocking clearly occurs *at the time the glider is launched* (i.e. not at some significant time thereafter, such as the glider's apex). To the extent that the proper definition of the phrase "when said glider is launched from said launcher" is not immediately apparent, Applicants note that the specification provides ample definition, including but not limited to the teachings of paragraphs [0032] and [0056]. In short, Drobniwsky fails to teach the locking mechanism recited in present Claim 10. Applicants further note that Fogarty et al. fails to make up for this deficiency of Drobniwsky. In light of the foregoing, Claim 10 is patentable over the combination of Drobniwsky and Fogarty et al., and therefore Applicants respectfully request that the rejection be withdrawn.

Applicants note that, because Claims 21 and 22 depend from Claim 10, they are patentable over the art of record for at least the same reasons that Claim 10 is patentable over the art of record. Applicants further note that the Claims 21 and 22 include additional limitations that are not taught or suggested in the art of record, thus forming independent basis for novelty

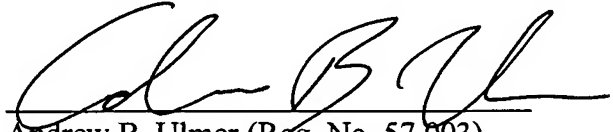
and non-obviousness. Applicants also note that Claim 23 is patentable over the cited art for at least the same reasons that claim 10 is patentable over the cited art.

To the extent that Applicants have not explicitly addressed certain aspects of the present rejections, please do not construe the same as an admission as to the merits of the rejections. In addition, to the extent that the amendments constitute a narrowing of the claims, such narrowing of the claims should not be construed as an admission as to the merits of the prior rejections. Indeed, Applicants traverse the rejections and preserve all rights and arguments, including rights with respect to arguments not explicitly raised herein.

In light of the remarks made herein, it is respectfully submitted that the claims currently pending in the present application are in form for allowance. Accordingly, reconsideration of those claims, as amended herein, is earnestly solicited. Applicants encourage the Examiner to contact their representative, Andrew Ulmer at (513) 369-4811 or aulmer@fbtlaw.com.

The Commissioner for Patents is hereby authorized to charge any deficiency or credit any overpayment of fees to Frost Brown Todd LLC Deposit Account No. 06-2226.

Respectfully submitted,



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